

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF BIG RIVERS	)	
ELECTRIC CORPORATION AND KENERGY	)	CASE NO.
CORP. TO IMPLEMENT A NEW STANDBY	)	2021-00289
SERVICE TARIFF	)	

ORDER

On November 2, 2021, Big Rivers Electric Corporation (BREC) filed a motion to amend the July 30, 2021 Order that established a procedural schedule in this case. BREC requested an amended procedural schedule to allow BREC and Kenergy Corporation (Kenergy) to file joint rebuttal testimony in response to the testimony filed by Kimberly-Clark Corporation (Kimberly-Clark).

BREC alleges that procedural due process requires that BREC and Kenergy be permitted time to present written evidence in response to the testimony filed by Kimberly-Clark. BREC claims that there is not enough time to respond and request a hearing before the current deadline of November 19, 2021, established in the current procedural schedule established by the July 30, 2021 Order.

Due process only requires the presentation and opportunity to rebut the evidence presented by Kimberly-Clark. Procedural due process does not require the opportunity to file written rebuttal testimony. The Commission supports having a robust record upon which to base its decision; therefore, the Commission provides two options for BREC to present rebuttal testimony:

1. BREC may file written rebuttal testimony and proceed with the hearing as requested by Kimberly-Clark. However, as a condition of filing written rebuttal testimony, BREC must agree to refrain from placing the proposed tariff provisions into effect until 45 days following the date the current suspension ends. This will permit the Commission time to review the written rebuttal testimony, hold a formal hearing as requested by Kimberly-Clark, and issue a final Order in this proceeding.
2. BREC may present oral rebuttal at the hearing and forego written rebuttal testimony. If BREC chooses this option, the Commission will hold a formal hearing to take evidence on all issues in this proceeding on December 1, 2021, at 9 a.m. Eastern Standard Time. If BREC decides upon this option, the Commission will issue its final Order before the end of the suspension period, and there will be no need for BREC to agree to delay placing the tariff into effect.

On or before November 12, 2021, BREC shall notify the Commission how BREC wishes to proceed.

Having reviewed the motion and being otherwise sufficiently advised, the Commission does not find good cause to grant BREC's motion to amend the procedural schedule in the manner requested by BREC.

IT IS THEREFORE ORDERED that:

1. BREC's motion for an amended procedural schedule is denied.
2. On or before November 12, 2021, BREC shall file a notice with the Commission that informs the Commission whether it will file written rebuttal testimony and

agree to delay placing the proposed tariff into effect for 45 days past the end of the suspension period, or whether it prefers to offer oral rebuttal at a formal hearing of all issues to be held on December 1, 2021.

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By the Commission

ENTERED  
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KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

Case No. 2021-00289

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